

BOARD FOR BRANCH PILOTS MEETING MINUTES

The Virginia Board for Branch Pilots met on Wednesday, December 14, 2011, at the Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia, with the following members present:

Charles R. Amory, Jr.
Captain Robert H. Callis, III
Bruce R. Cherry
Captain J. William Cofer
Captain Milton B. Edmunds
Thomas P. Host, III
William M. Martin, III (Arrived 10:40 a.m.)
Captain John A. Morgan, Jr.
Meade G. Stone, Jr.

Staff present for the meeting were:

Mark N. Courtney, Deputy Director for Licensing and Regulation
Kathleen R. Nosbisch, Executive Director

Joshua N. Lief, Senior Assistant Attorney General was present from the Office of the Attorney General.

Finding a quorum of the Board present, Mr. Cherry, President, called the meeting to order at 10:31 a.m.

Call to Order

Captain Callis moved to approve the agenda. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Morgan and Stone.

Approval of Agenda

Mr. Stone moved to approve the minutes from the November 2, 2011 board meeting as amended. Captain Callis seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Morgan and Stone.

Approval of Minutes

Mr. Host recused himself from the meeting and left the room as his company, T. Parker Host, Inc., was the agent for the ship involved in the incident letter from Captain Frank Rabena.

Recusal of Mr. Host

The Board reviewed a letter from Captain Frank Rabena, regarding an incident on October 23, 2011, involving the M/V CYNTHIA POWER.

Captain Frank Rabena – M/V CYNTHIA POWER

On Sunday, October 23rd, 2011 Captain Rabena was ordered to sail the M/V CYNTHIA PIONEER (IMO #9392133) from Hopewell, Virginia to Sewell's Point Anchorage.

The weather conditions were good. The wind speed fluctuated from 0 to 5 knots from a northerly direction. Visibility was clear for 10 miles. The tidal current was ebbing approximately 1 knot.

Captain Rabena undocked the M/V CYNTHIA PIONEER from the Honeywell terminal at approximately 1745 hours. At 1758 hours, as the vessel passed green buoy 111, Captain Rabena called the Benjamin Harrison Bridge on VHF channel 13 and requested a full bridge opening. The bridge tender replied that she would start her procedure to raise the bridge. At approximately 1801 hours, the bridge tender reported that she was having a mechanical problem and could not raise the bridge. Captain Rabena immediately informed the captain of the situation and ordered engine rpm reductions to slow the ship's speed. Captain Rabena performed this reduction in stages from half ahead to slow ahead to dead slow ahead to stop engine. This was done in this order to maintain the ship's heading and course over the ground while reducing the ship's speed. The tug TOBACCO POINT was still in the immediate vicinity so Captain Rabena called for their assistance. The TOBACCO POINT headed to the ship's location immediately and called the tug TAFT BEACH to do the same as soon as they were finished docking a barge at the Honeywell terminal. Because of the state of tidal current, the ship's handling characteristics and draft of 23 feet and 11 inches, Captain Rabena reached a point where he had to release the port anchor in order to prevent the ship from hitting the Benjamin Harrison Bridge and/or running aground. To help reduce the ship's speed while maintaining the heading, Captain Rabena released three shots of anchor chain to dredge the anchor. Once the ship's speed was sufficiently reduced, Captain Rabena released a total of five shots of anchor chain to help maintain the ship's position in the channel and reduce the ship's speed to 0 knots. The two tugs were not going to make it to the ship in time to assist in maintaining position, so Captain Rabena used the ebb current and anchor to rest the port quarter of the ship against the river bank. Captain Rabena did this because he did not want the ship to turn beam to the ebb current and potentially cause the bow or propeller to become hard aground. In addition, Captain Rabena did not want the ship to turn and stem the ebb current because that would have brought it even closer to the bridge. Also, Captain Rabena did not find it appropriate to work the ship against the anchor in order to maintain position in the middle of the channel due to the extremely close proximity to the bridge. Once the tugs arrived, Captain Rabena stationed one on each side of the ship with a line made fast to the ship. Captain Rabena maintained this position for approximately 1 hour when the Benjamin Harrison Bridge called and reported that the bridge was fixed and opening. Captain Rabena proceeded to heave the anchor and get the ship under way, and then contacted the United States Coast Guard to report the events at approximately 1945 hours.

The Board agreed that Captain Rabena's handling of the situation was a fine example of piloting and commended his efforts. After review and discussion, the Board agreed by consensus that this was a non-incident. Mr. Stone moved that the letter be filed and that the Board take no action, as there appears to be no violation of the Board's regulations or statutes. Captain Morgan seconded the motion which was unanimously approved by Messrs. and Captains:

Amory, Callis, Cherry, Cofer, Edmunds, Martin, Morgan and Stone.

Mr. Host returned to the meeting.

**Return of Mr.
Host**

Captain Morgan provided the Board with a report of the meeting of Examination Administrators from December 6 and 7, 2011. The Examination Administrators reviewed the renewal applications for the 2012 calendar year and presented the following report:

**Exam
Administrators
Report**

The following branch pilot licenses were presented for renewal: Lorenzo D. Amory, III; E. Waightstill Avery; John Brockington Beasley, Jr.; Charles I. Boggs, Jr.; Robert H. Callis, III; Julian Wythe Whiting Chisman, III; James William Cofer; January N. Collins; William L. Counselman; William G. Diggs; Ernest W. Dodson, Jr.; Robert Henley Dozier, III; Milton B. Edmunds; Michael S. Eubanks; Mark S. Evans; Tazewell Fitzgerald; Nelson Turner Gray; Herbert R. Green, III; Nathaniel T. Green, II; Kevin D. Hartz; W. S. Harwood, III; David H. Heath; Charles H. Hoffman; Robert Lee Holland, Jr.; Richard Keith Hope; Brian Keith Hudgins; Chadwick M. Jamison; Jacob R. Johnson; John Allison Jones, Jr.; Benjamin B. Lee; Joseph R. McKnew; Dale Allen Meyer, Jr.; John A. Morgan, Jr.; John G. Phillips, Jr.; Robert L. Prodan, II; Frank M. Rabena; Roy A. Rector, Jr.; Torrence A. Rogers; Thomas D. Rutter; Gustave B. Schill; Benjamin L. Speckhart; Luther J. Stallings, III; Gilbert R. Swink, III; James South Trimble; David B. Ware; Jonathan D. Worth; and Clarence M. Young.

The members of the Examination Administrators Committee reviewed the renewal application paperwork and deemed the individuals qualified pursuant to § 54.1-906 of the *Code of Virginia*. Mr. Martin moved to approve the renewal applications of the above-listed unlimited licensees. Mr. Host seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan, and Stone. Captains Callis, Cofer, Edmunds, and Morgan abstained from voting on their respective licenses. Mr. Amory abstained from voting on the license of Captain Lorenzo D. Amory III, as they are brothers.

The following limited branch pilot licenses were also presented for renewal: Adam L. Halstead, Charles A. Huffman; William G. Saunders, Jr.; and Joseph M. Schacherer III.

The members of the Examination Administrators Committee reviewed the renewal application paperwork and deemed the individuals qualified pursuant to § 54.1-906 of the *Code of Virginia*. Captain Morgan moved to approve the renewal applications of the above-listed limited licensees at their respective limitations as of December 31, 2011. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan and Stone.

Captain Morgan moved to waive the requirements of subsection C.3 of regulation 18 VAC 45-20-20, pursuant to subsection C.4 of regulation 18 VAC 45-20-20, for transit on the Potomac River for the following branch pilots due to no ship traffic: John Brockington Beasley, Jr and William G. Diggs. Captain Callis seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan and Stone.

Captain Callis reported that no ship has transited the York River above Pages Rock in more than six years. Therefore, Captain Morgan moved to waive the requirements of subsection C.3 of regulation 18 VAC 45-20-20, pursuant to subsection C.4 of regulation 18 VAC 45-20-20, for transit above Pages Rock on the York River for the following branch pilots due to no ship traffic: Robert H. Callis, III; William L. Counselman; William G. Diggs; Mark S. Evans; Tazewell Fitzgerald; Nelson Turner Gray; Charles H. Hoffman; and John A. Morgan, Jr. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan and Stone. Captains Callis and Morgan abstained from voting on their respective licenses.

Captain Cofer provided a report on the Virginia Pilot Association's Apprenticeship Program. A letter from Captain Ware of the Apprenticeship Committee of the Virginia Pilot Association recommended that there be no additions or revisions to the Virginia Pilot Apprenticeship Training Program.

**Review of
Virginia Pilot
Association's
Apprenticeship
Program**

Captain Callis moved to approve the Apprenticeship Program, Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan, and Stone. Mr. Martin moved to delegate the operation and administration of the program to the Virginia Pilot Association for 2012. Mr. Amory seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan, and Stone.

Mr. Lief informed the Board that pursuant to § 54.1-100 of the *Code of Virginia*, a review had been conducted of the Board's regulations and there were no conflicts in its regulations with the Constitution of the United States, the Constitution of Virginia, the laws of the United States, or the laws of the Commonwealth of Virginia.

**Review of
Regulations
Pursuant to
§54.1-100 of the
Code of Virginia**

Ms. Nosbisch informed the Board that the final regulations are at the Governor's office for approval, day 71. Once the regulations are approved and signed, the regulations must proceed to the Registrar's office within 14 days to be published. A 30-day public comment period will follow.

**Regulatory
Review Update**

Ms. Nosbisch informed the Board that public comment period for the Periodic

Regulatory Review was October 10, 2011 through October 31, 2011. There were no comments made. Mr. Martin moved to file a TH-07 and take no further action on the regulations. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Cofer, Edmunds, Host, Martin, Morgan, and Stone.

Captain Cofer recused himself from the meeting.

**Captain Cofer
Recused**

At 11:01 a.m., Captain Edmunds moved that the Board for Branch Pilots convene a closed meeting under the Virginia Freedom of Information Act to confer with legal counsel relating to the Walter Hugh McCrory, Jr. appeal, a matter lawfully exempted from open meeting requirements under the "consultation with legal counsel" exemption contained in §2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Kate Nosbisch, Joshua Lief and Mark Courtney. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Edmunds, Host, Martin, Morgan, and Stone.

**Closed Meeting -
Update on
Walter Hugh
McCrory Appeal**

At 11:47 p.m., Captain Edmunds moved to adjourn the closed meeting and to immediately reconvene in open meeting. Mr. Martin seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Edmunds, Host, Martin, Morgan and Stone.

Open Meeting

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board for Branch Pilots has convened a closed meeting on this date pursuant to an affirmative recorded vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board certifies that, to the best of each member's knowledge, (I) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in the closed meeting to which the certification applies, and (II) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

VOTE: 8-0

AYES: Amory, Callis, Cherry, Edmunds, Host, Martin,
Morgan and Stone.

NAYS: 0

Abstained: 1 - Cofer

Captain Cofer returned to the meeting.

**Return of
Captain Cofer**

The Board recessed from 11:50 a.m. until 11:55 a.m.

Recess

The Board discussed the current physical forms presented by the pilots upon renewal of license. It was agreed by consensus that a blank physical form would be provided at the next meeting for a more detailed review by the Board to determine what information was necessary for pilots to provide upon renewal.

Other Business

Ms. Nosbisch reminded the Board that completed financial disclosure statements were due back to board staff by December 31, 2011.

Conflict of Interest forms and travel vouchers were completed by all members present.

**Conflict of
Interest Forms**

There being no further business, the meeting was adjourned at 12:20 p.m.

Adjourn

Bruce R. Cherry, President

Gordon N. Dixon, Secretary